



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8

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OCT 03 2018

Ref: 8RC

This letter contains information claimed as Confidential Business Information (CBI) and should be handled in accordance with appropriate CBI procedures.

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Michelle DeVoe
Davis Graham & Stubbs LLP
1550 17th Street, Suite 500
Denver, CO 80202

Re: Nelson Tunnel Superfund Site, Creede, Colorado; Final Determination Concerning Confidentiality

Dear Ms. DeVoe:

Hecla Limited and CoCa Mines, Inc. (Hecla) have asserted a claim of confidentiality over documents previously submitted in response to a 2009 United States Environmental Protection Agency (EPA) information request made under section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. § 9604(e). The claim covers documents listed as Exhibit A in your April 13, 2015 substantiation letter ("Substantiation") [Attachment 1]. Your Substantiation grouped the documents into the following three categories:

- (1) Category 1: proprietary information, including drilling, sampling, mapping and other commercially sensitive data and analysis, related to mineral resources and their evaluation, exploration, development and production;
- (2) Category 2: minutes of corporate meetings, corporate resolutions and related documents; and,
- (3) Category 3: insurance policies and related documents.

You subsequently withdrew your claim of confidentiality for all documents in Category 1, except for a subset of documents originally included in that category that you later stated should be included in Category 2 instead: Hecla 104(e) 0731-0745, Hecla 104(e) 0876-0890 and Hecla 104(e) 0891-0984. This determination will address those recategorized documents, which are listed in detail in Attachment 2. EPA will assess the information identified as confidential for the remaining documents in Categories 2 and 3 in a subsequent determination.

I have carefully considered your claim. Pursuant to my authority under 40 C.F.R. § 2.205, for the reasons stated below, I find that the documents at Hecla 104(e) 0731-0745, Hecla 104(e) 0876-0890, and Hecla 104(e) 0891-0984 are not entitled to confidential treatment.

BACKGROUND

The following is a timeline of correspondence exchanged with respect to this claim:

1. March 19, 2015: EPA requested that Hecla substantiate its claim of confidentiality ("Request for Substantiation").

2. April 13, 2015: EPA received Hecla's response to EPA's request. Hecla asserted the confidentiality of all the information in Exhibit A to be maintained in perpetuity, including all Category 1 documents. Substantiation, Exhibit A.
3. August 13, 2018: EPA requested, by email, a more detailed description of Hecla's CBI claims made in the 2015 substantiation within five business days (August 20).
4. August 15, 2018: EPA received Hecla's extension request to submit the additional information and requested a response by August 27th (an additional five business days).
5. August 23, 2018: EPA counsel discussed EPA's request for additional information with counsel for Hecla, who requested a further extension of the deadline to submit the additional information. EPA granted an extension for Hecla to submit the additional information by September 4, 2018, and that Hecla use the additional time "to identify the CBI-claimed material with greater specificity, including an identification (by clearly marking the documents with redactions) of ore assay results and a discussion of their relation to substantial competitive harm."
6. September 4, 2018: EPA received Hecla's response by letter, narrowing Hecla's CBI claims. ("September 4 Letter") [Attachment 3]. The September 4 Letter stated that with the exception of certain documents that were inadvertently included in Category 1 (Hecla 104(e) 0731-0745, Hecla 104(e) 0876-0890, and Hecla 104(e) 0891-0984), "the Companies no longer considered the documents in Category 1 as confidential and would withdraw their CBI claim." September 4 Letter, at 1. In effect, Hecla released its CBI claim over all the Category 1 documents except Hecla 104(e) 0262-0984. *See* Substantiation at Exhibit A.¹

Hecla continues to claim that Hecla 104(e) 0731-0745 and Hecla 104(e) 0876-0890 are confidential on the basis that "these documents were also inadvertently included in Category 1 on Exhibit A. These documents contain minutes of corporate meetings and financial information about the companies. These documents should be treated the same as other documents in Category 2." September 4 Letter at 2.

Additionally, the September 4 Letter included a footnote stating that there was a numbering error in Exhibit A and that the first entry on Exhibit A (referring to Hecla 104(e) 0262-0984) should have stopped at Hecla 104(e) 0890, and requested that EPA notify Hecla if EPA has copies of Hecla 104(e) 0891-0984 so that Hecla could identify the confidentiality of those documents. September 4 Letter at 2, footnote 1. EPA submitted copies of Hecla 104(e) 0891-0984 to Hecla on September 4 and requested a response regarding the confidentiality of these documents by September 7th, and noted EPA would otherwise make a determination based on information submitted to date. EPA did not receive a response.

Therefore, this determination will address the following documents based on information submitted to date [Attachment 2]:

- (1) Hecla 104(e) 0731-0745;
- (2) Hecla 104(e) 0876-0890; and,
- (3) Hecla 104(e) 0891-0984.

DISCUSSION

¹ As for Hecla 104(e) 0262-0984, the September 4 Letter further narrowed the scope of Hecla's CBI claim over information in these documents by stating that it no longer considered Hecla 104(e) 0262-0730 and 0746-0875 as confidential. The letter stated that "these documents were inadvertently included in Category 1 [o]n Exhibit A," and stated that "[t]hese documents actually contain information provided to and discussions with the Federal Trade Commission, the Securities and Exchange Commission, the New York Stock Exchange and shareholders regarding the acquisition of CoCa." September 4 Letter at 2. Because Hecla has withdrawn its claim, we will no longer treat these documents as potential CBI, and may disclose them without further notice.

Scope of FOIA exemption 4

Exemption 4 of the FOIA covers “trade secrets and commercial or financial information obtained from a person [that is] privileged or confidential.” 5 U.S.C. § 552(b)(4). For information to meet the requirements of this exemption, the EPA must find that the information is either (1) a trade secret; or (2) commercial or financial information obtained from a person and privileged or confidential (commonly referred to as Confidential Business Information, or CBI). The definition of “trade secret” under the FOIA is limited to “a secret, commercially valuable plan, formula, process, or device that is used for the making, preparing, compounding, or processing of trade commodities and that can be said to be the end product of either innovation or substantial effort.” *Public Citizen Health Research Group v. FDA*, 704 F. 2d 1280, 1288 (D.C. Cir. 1983). You have neither identified nor definitively claimed that the information is a trade secret, nor explained how the Agency’s release of this information would identify a plan, formula, process, or device. See Substantiation at 6. Therefore, I find that the information is not a trade secret. The remainder of this determination discusses whether the information is CBI.

CBI: Initial Considerations

Threshold requirements: commerciality, “from a person”

Though not a trade secret, information may still be exempt from release under the FOIA if it is CBI: “commercial or financial information obtained from a person and privileged or confidential.” 5 U.S.C. § 552(b)(4). The terms “commercial” or “financial,” for purposes of FOIA Exemption 4, “should be given their ordinary meanings.” *Pub. Citizen*, 704 F.2d at 1290 (citing *Washington Post Co. v. HHS*, 690 F.2d 252, 266 (D.C. Cir. 1982)). Here, the information at issue relates to a business, thereby meeting the ordinary definition of “commercial.” Since Hecla meets the definition of the term “person,” as defined by EPA regulations at 40 C.F.R. § 2.201(a), the information was “obtained from a person” as required by Exemption 4 of the FOIA.

Criteria for evaluating confidentiality of business information

EPA’s regulations state that for business information to be entitled to confidential treatment the Agency must have determined that, *inter alia*:

- (1) The business has asserted a claim of confidentiality and that claim has not expired, been waived, or been withdrawn;
- (2) The business has shown that it has taken reasonable measures to protect the confidentiality of the information, and that it intends to continue to take such measures;
- (3) The information is not, and has not been, reasonably obtainable by a third party through legitimate means without the business’s consent; and
- (4) No statute specifically requires disclosure of the information.

40 C.F.R. § 2.208. Hecla has described its assertions of confidentiality for all documents described in Exhibit A, its efforts to prevent disclosure, and the public unavailability of the documents. Substantiation at 1-3. In its analysis of this matter, EPA has not found any reason to doubt these assertions by Hecla. Further, I have found no information as to any statute specifically requiring disclosure of the information at issue here. Therefore, I find that the four criteria above have been satisfied for each of the three groups of documents at issue here.

The remainder of the confidentiality analysis involves criteria that differ depending on whether the information was voluntarily submitted to the agency. Information submitted to the Government on a voluntary basis “is ‘confidential’ for the purpose of Exemption 4 if it is of a kind that would customarily

not be released to the public by the person from whom it was obtained.” *Critical Mass Energy Project v. Nuclear Regulatory Commission*, 975 F.2d 871, 879 (D.C. Cir. 1992) (en banc), *cert. denied*, 507 U.S. 984 (1993). On the other hand, information that was required to be submitted to the Government is confidential if its “disclosure would be likely either ‘(1) to impair the Government’s ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained.’” *Critical Mass*, 975 F.2d at 878 (quoting *National Parks and Conservation Association v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974)) (footnote omitted).

Confidentiality Analysis: Required Submission

For a submission to be considered required, an agency must possess the authority to require submission of information to the agency and must exercise this authority. *National Parks*, 498 F.2d at 770; *see also Critical Mass*, 975 F.2d at 880. As acknowledged in your substantiation, all documents at issue here were collected under EPA’s CERCLA authority. Substantiation at 5. Accordingly, because the EPA not only has the authority to require submission of the information, but also has exercised its authority, Hecla’s submission of the information was required, and this determination will apply the confidentiality criteria pertinent to required submissions.

As discussed above, the test for confidentiality of commercial or financial information that is required to be submitted to the government is governed by *National Parks*, 498 F.2d at 770. Under the *National Parks* test, a required submission is “confidential” if “disclosure of the information is likely to have either of the following effects: (1) to impair the Government’s ability to obtain necessary information in the future; or (2) to cause substantial harm to the competitive position of the person from whom the information was obtained.” *Id.* at 770 (footnote omitted).

Required submission, first confidentiality element: Impairment

In addressing impairment to the Government’s ability to obtain necessary information that is required to be submitted in the future, the inquiry focuses on the likelihood that the Government will receive accurate information from the submitter. In other words, “[i]f the government can enforce the disclosure obligation, and if the resultant disclosure is likely to be accurate, that may be sufficient to prevent any impairment.” *Washington Post*, 690 F.2d at 268. Here, the information was obtained under EPA’s statutory information gathering authority.

EPA has an enforcement mechanism to ensure that recipients do not disregard CERCLA information requests, and I find no reason to believe that disclosure of the information in this matter would itself lead to noncompliance. Therefore, reviewing the first part of the *National Parks* confidentiality standard, I find no basis to conclude that disclosure of any of this information would impair the government’s ability to use its authority to obtain information in the future. The confidentiality analysis therefore turns to the question of competitive harm.

Required submission, second confidentiality element: Competitive harm

Information that was required to be submitted is confidential if its disclosure would be “likely to cause substantial harm to the business’s competitive position.” 40 C.F.R. § 2.208(e)(1); *National Parks*, 498 F.2d at 770. To meet the competitive harm test, it is not enough to show that the release of the information would likely cause *any* potential for competitive harm. Rather, Hecla must demonstrate both actual harm and a likelihood of substantial competitive harm. *CNA Financial Corp. v. Donovan*, 830 F.2d 1132, 1152 (D.C. Cir. 1987), *cert. denied*, 485 U.S. 977 (1988). As set forth in the Request for Substantiation, to support a claim for confidential treatment, Hecla must discuss with specificity why release of the information is likely to cause substantial harm to its competitive position. Further, Hecla must explain the

nature of these harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. In addition, Hecla must explain how its competitors could make use of this information to your detriment.

Hecla made assertions of competitive harm for the entirety of Hecla 104(e) 0731-0745 and Hecla 104(e) 0876-0890, stating that these documents were inadvertently included as part of Category 1 in the Substantiation and instead should have been categorized as Category 2. September 4 Letter at 2. And despite a request to review documents that Hecla believed reflected a numbering error, Hecla 104(e) 0891-0984, EPA did not receive any additional information on these documents from Hecla and it is unclear what category Hecla considers these documents to be categorized as² These documents are dated in the 1980s and they constitute correspondence, memoranda, and annual/quarterly/monthly cost and progress reports related to exploration efforts in the Creede mining area. They describe Mineral Engineering Company's ("MECO")³ exploration efforts in the Creede mining area to secure a joint venture partnership with Homestake Mining.⁴ See Attachment 4.

According to Hecla, release of information in these documents would cause substantial harm to its competitive position because it includes information that:

allows the Companies to evaluate the economic feasibility of developing a particular mineral deposit. Even where the development of a property is not immediately feasible from an economic standpoint, or is unlikely for other reasons, this information remains valuable.... Data from one site may lead to insight with respect to unrelated properties, and exploratory techniques developed in the course of evaluating the mineral resources in one location may be applied at others.

Substantiation at 4.

Further, the Substantiation states:

documents in Category 2 contain the opinion and analysis of the Companies' management regarding the investment in, and operation of, various mineral development projects, candid discussions regarding the overall management of the Companies, and management's opinion on sensitive financial, personnel and similar matters. This information is similar to the information in Category 1, and may harm the Companies' competitive positions for similar reasons. Release of this information would also provide the Companies' competitors with unique analysis and opinion regarding the overall financial status of the Companies, as well as the Companies' confidential strategies for investment and growth.

Substantiation at 4.

EPA has identified the following subcategories of information within these three sets of documents, and will address each of them in this determination.

² As explained previously, in its September 4 Letter, Hecla requested that EPA confirm whether it had copies of Hecla 104(e) 0891-0984 because Hecla thought there had been a numbering error for Hecla 104(e) 0262-0984, the first entry in Exhibit A of their Substantiation and that this entry should have stopped at 0890. The September Letter indicated that Hecla would confirm the confidentiality of those documents once it reviewed those documents. September 4 Letter at 2, Footnote 1. EPA sent copies of all documents from 0891-0894 and requested that Hecla respond by September 7. While Hecla ultimately did not respond, EPA will assume that Hecla maintains that these documents are confidential.

³ EPA's understanding is that CoCa Mining acquired MECO, and Hecla Mining subsequently acquired CoCa.

⁴ It is unclear whether CoCa formed a joint venture with Homestake, but the documents at issue suggest that CoCa Mining (previously MECO) at least made efforts to enter into one with Homestake. See e.g., Hecla 104(e) 03600 (Hecla's CBI claim for this document was withdrawn in its September 4 Letter at 2); U.S. Geological Survey, "Mineral Resource Data System: Creede Formation," available at https://mrdata.usgs.gov/mrds/show-mrds.php?dep_id=10118250.

1. *Information related to prospective exploration or the status of current exploration including descriptions of the location, estimated depth, orientation, or inclination of drill holes, adits, shafts, or decline, excluding ore assay results.*
2. *General timelines and anticipated monthly or annual costs of the above exploration efforts.*
3. *Status of inspections conducted, and reports to be filed to United States Bureau of Mines, Colorado Division of Mines, and the Mine Safety and Health Administration.*
4. *Assay results and intercepts showing grade or reserves.*

As described in further detail below, I find that Hecla has failed to establish that competitive harm could result from disclosure of any of the above-described four categories of information. Conclusory and generalized allegations of substantial competitive harm cannot support an agency's decision to withhold requested documents. *Pub. Citizen*, 704 F.2d at 1291; *Delta Ltd. v. U.S. Customs & Border Prot. Bureau*, 384 F. Supp. 2d 138, 149 (D.C. Cir 2005). Submitters must make assertions with some level of detail as to the likelihood and the specific nature of the competitive harm they predict. *Lykes Bros. S.S. Co. v. Peña*, No. 92-2780, 1993 U.S. Dist. LEXIS 20279 at *20–21 (D.D.C. Sept. 2, 1993). Rejecting competitive harm claims is appropriate when a submitter fails to provide adequate documentation of the specific, credible, and likely reasons why disclosure of the document would cause substantial competitive injury. *Lee v. FDIC*, 923 F. Supp. 451, 455 (S.D.N.Y. 1996). Although your substantiation asserts that companies “cannot function competitively” if “geologic data and analyses developed or acquired over a period of many years, and at considerable expense..., as well as the proprietary methods that mining companies develop for collecting this information” are released, Substantiation at 4, you do not specifically explain how this would occur, how likely it is for this to occur, why any harmful effects should be viewed as substantial, and the causal relationship between disclosure and harmful effects. Instead, you merely state that “[e]ven where development of a property is not immediately feasible from an economic standpoint, or is unlikely for other reasons, this information remains valuable,” and that “competitors may gain an advantage by acquiring the same information at virtually no cost.” Substantiation at 4.

Hecla's assertion that disclosure of the documents would result in substantial economic harm is further undermined when the types of information claimed as CBI in the documents at issue, which describe Homestake and MECO's⁵ exploration and discovery of high-grade silver veins in the northern part of the Creede district in the 1980s, are publicly available. “The Creede district in Colorado has been the focus of extensive and intensive research for more than 35 years by the U.S. Geological Survey, academia, and industry” and mining companies in the Creede district appear to be aware of their competitors' underground exploration activities, and the potential economic value in developing the delineated ores.” U.S. Geological Survey, *Environment of Ore Deposition in the Creede Mining District, San Juan Mountains, Colorado: Part V. Epithermal Mineralization from Fluid Mixing in the OH Vein*, Economic Geology, p.29 (Hayba 1997); see also *Geology, Vein Petrography and Mineral Chemistry of the North Amethyst Deposit, Creede Mining District, Creede, Colorado* (Colorado School of Mines Thesis Submittal, p. 1-2, 23 (Guzman). Publicly available analyses conducted by the government, industry, and academics describe in detail Homestake's exploration activities since its discovery of the veins in the 1980s and until its closure of mining in the area in 2011. See Guzman at 1, 23-31.

In fact, mining companies themselves appear to willingly provide data on drill cores and assay results. For example, Homestake Mining had “provided access to exploratory workings of the North Amethyst vein and the opportunity to study some aspects of the newly discovered mineralization.” *Mineralogy, Mineral*

⁵ CoCa Mining and Homestake Mining appeared to have entered, or were in the process of pursuing, a possible joint venture partnership with Mineral Engineering Company (MECO) for the Creede Formation Project in the 1980s according to Hecla 104(e) 03600. Hecla Mining Company acquired CoCa Mining (which acquired MECO) in the 1990s. <https://www.hecla-mining.com/history/>

Chemistry, and Paragenesis of Gold, Silver, and Base-Metal Ores of the North Amethyst Vein System, San Juan Mountains, Mineral County, Colorado, U.S. Geological Survey Professional Paper 1537, p. 2 (Foley, et al. 1993). A more recent report describes the drill core and fire assay results of Rio Grande Silver's (a subsidiary of Hecla) 2011-2013 exploration program in the Creede district that the company shared with a graduate student. Guzman at 1-2, 23, 28-29, 37. The student's report uses the shared data to describe "a description of the vein intercepts investigated as part of the present study. The mineral and textural characteristics of the vein intercepts are described and the location of the vein samples collected in this study are presented." *Id.* at 37. Hecla's assertion that disclosure of "[t]he acquisition, development and analysis of exploration data exploratory techniques" would benefit its competitors "by acquiring the same information at virtually no cost," is unpersuasive when it appears that Hecla has recently provided such information willingly.

We also find convincing the Bureau of Land Management's discussion of confidential information in the context of Notices or Plans of Operations for NEPA purposes as referenced in its Surface Management Handbook, H-3809-1 (Sept. 17, 2012, p. 13-10), *available at* <https://www.blm.gov/sites/blm.gov/files/H-3809-1.pdf>. The Handbook notes that information pertaining to the "anticipated depth, orientation, or inclination of features such as...drill holes, pits, adits, shafts, or declines, etc., is not considered as confidential or proprietary." *Id.* Similarly, drill core information including depth, number of cores, and ore body information is also publicly available since much of the Creede formation is on public land. *See* U.S. Geological Survey, "Mineral Resource Data System: Creede Formation," *available at* https://mrdata.usgs.gov/mrds/show-mrds.php?dep_id=10118250. The private sector (and not just government) also appears to make such information available. *See* Traylor Bros. Inc., "Bulldog Mine 9400 Level Access Decline," *available at* <http://www.traylor.com/projects/bulldog-mine-9400-level-access-decline/> (Bulldog Mine is located within the Creede District). Such publicly available information includes identification of areas of potential economic value in the district,⁶ including the above-described report based on an analysis of assay results from Rio Grande Silver's 2011-2013 exploration efforts, and methods used to study such assays. *See e.g., Application of Fluid Inclusion and Rock-Gas Analysis in Mineral Exploration*, *Journal of Geochemical Exploration*, p. 201-215 (Kesler, Haynes, et. al 1986) (describing fluid inclusion as a method to analyze ore assays).

Additionally, it is unclear why Hecla would be competitively disadvantaged against its competitors with the disclosure of the CBI-claimed documents when Hecla's wholly owned subsidiary, Rio Grande Silver, currently owns most of the Creede mining district, or has already staked claims to areas that are public land and has resumed exploration activities. *See* "Geology, Vein Petrography and Mineral Chemistry of the North Amethyst Deposit, Creede Mining District, Creede, Colorado," Colorado School of Mines Thesis Submittal, p. 29 (Guzman) *available at* https://mountainscholar.org/bitstream/handle/11124/170031/Guzman_mines_0052N_10943.pdf; *see also* Hecla Mining Company, "San Juan Silver," *available at* <https://www.hecla-mining.com/san-juan/> (noting that Hecla acquired the remaining 30% interest from joint venture partners in estimated 45% of the 21-square-mile consolidated land package and describing what exploration activities have resumed). Hecla's industry, silver mining, appears distinguishable from other industries where a company may gain a competitive advantage by underbidding other competitors, or the development of proprietary methods. *See NRDC, Inc. v. United States Dep't of Interior*, 36 F. Supp. 3d 384, 403-04 (S.D.N.Y. 2014). Rather, business decisions in mining are largely contingent on market prices of silver and the amount of underlying ore. *See* Guzman at 29 (noting that Rio Grande Silver reopened and rehabilitated Homestake's Equity Mine

⁶ *See* Hayba at 30. ("The ore deposits are shallow precious and base metal veins that occur as open-space fillings. Nearly all the production has come from the veins filling the Amethyst, Bulldog, OH, and P fault systems....To the south, the Amethyst vein and the projection of the OH vein both cut a paleostream channel filled with coarse, clastic material of the Creede Formation which, in places, contains economic silver mineralization.").

in 2011 to conduct exploration drilling, whose surface and underground exploration drilling campaign outlined several zones of high-grade silver bearing veins, but did not result in immediate development due to insufficient tonnage); *see also* Hayba at 30 (“Historically, only minor production has come from the far northern end of the Amethyst system, the Midwest mine, and the Equity fault. Recent exploration in this area looked promising, but it has not yet proved economic.”).

Finally, the age of the documents also undermines any claim to confidentiality. The documents at issue from 1983 to 1989, and therefore the information is at least 29 to 35 years old. Hecla asserts that staleness of the information does not matter because the geology of the formation stays the same. However, the financial and personnel cost estimates that may hinge upon the economic feasibility of developing a particular mineral deposit are dated by almost three decades. With technological developments and an increase in knowledge of the Creede district by the industry as a whole as described above, Hecla has not demonstrated how such dated economic feasibility studies would benefit potential competitors. Information submitted to EPA can become stale over time, as the passage of time often erodes the likelihood of competitive harm. Age of documents is a factor to consider in determining whether disclosure is likely to cause competitive harm. *In re Agent Orange Product Liability Litigation*, 104 F.R.D. 559, 575 (E.D.N.Y. 1985) (citing, e.g., case holding information “stale and not entitled to protection” after three to fifteen years); *Ctr. for Pub. Integrity v. DOE*, 191 F. Supp. 2d. 187, 195 (D.D.C. 2002) (“Courts have recognized that the passage of time can mitigate the potential for harm that might otherwise have resulted from the release of commercial information”). I find that the information in the two documents is stale for purposes of demonstrating any potential competitive harm.

For the reasons stated above, EPA has determined that release of the information described above is not “confidential,” and is thus subject to disclosure.

CONCLUSION

I find that all the information claimed as confidential in Attachment 4 is not a trade secret or CBI and, therefore, is not within the scope of Exemption 4 of the FOIA. Pursuant to EPA’s regulations at 40 C.F.R. § 2.205(f), this constitutes the final EPA determination concerning your business confidentiality claim. This determination may be subject to judicial review under 5 U.S.C. §§ 701 *et seq.*

If you have any questions about this matter, please call Mai Denawa, Associate Regional Counsel, at (303) 312-6514.

Sincerely,



Kenneth C. Schefski
Regional Counsel

Enclosures

1. 2015 Helca Substantiation Letter
2. Documents at Issue in this Determination
3. Helca September 4, 2018 Letter
4. Document Description

cc: Erin Agee, Legal Enforcement Program